

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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iRACING.COM MOTORSPORT SIMULATIONS,  
LLC, a Delaware Limited Liability Company,

Plaintiff,

v.

TIM ROBINSON, individually and d/b/a  
www.ow-racing.com and www.torn8oalley.com

Defendant.

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X

Civil Action No.  
05-11639 NG

AFFIDAVIT OF DAVID  
KAEMMER IN SUPPORT  
OF APPLICATION FOR  
TEMPORARY  
RESTRAINING ORDER  
AND EXPEDITED  
DISCOVERY

X

I, DAVID KAEMMER, state as follows,

1. I am the President and Chief Executive Officer of iRacing.com Motorsport Simulations, LLC, f/k/a First, LLC and First-Racing.Net ("iRacing").
2. iRacing is the owner of all the intellectual property rights in a computer auto racing simulation program called NASCAR® Racing 2003 Season ("NASCAR® 2003"), including all copyrights whether registered or unregistered.
3. NASCAR® 2003 is an award-winning computerized game auto racing simulation program that is so realistic that even professional NASCAR® drivers use it as a training tool.
4. Defendant Tim Robinson ("Robinson") is a self-described "simaholic."
5. Based on our investigation, Robinson owns two websites, www.ow-racing.com and www.torn8oalley.com, that are dedicated to computer auto racing simulation programs. I have attached the "WHOIS" information for these two websites as Exhibits A and B to this affidavit.

6. I believe that Robinson is affiliated with a third Internet website, [www.first-racing-sucks.com](http://www.first-racing-sucks.com), because he regularly posts on that website and because he has made posts on the Internet that refer to [www.first-racing-sucks.com](http://www.first-racing-sucks.com) in the first person.

7. Anyone lawfully obtaining a copy of NASCAR® 2003 is required to agree to explicit prohibitions in the End User License Agreement (the "EULA"), including prohibitions on copying, reproducing, deriving source code or reverse engineering NASCAR® 2003 (i.e., analyzing the computer-language instructions to determine the way in which the programs were written), creating derivative works based on NASCAR® 2003, and transferring reproductions of NASCAR® 2003 to other parties in any way. A true and correct copy of the NASCAR® 2003 EULA is Exhibit A to this Complaint.

8. The EULA provides that "[a]ny use, reproduction or redistribution of the Program not in accordance with the terms of the License Agreement is expressly prohibited."

9. The EULA has not materially changed from the time it was distributed with the original software release of NASCAR® 2003.

10. iRacing holds the rights to enforce the EULA to the extent necessary to protect its rights in NASCAR® 2003.

11. All lawful copies of NASCAR® 2003 are equipped with an application called Securom to protect against software piracy. In effect, Securom creates a lock and key that will prevent NASCAR® 2003 from operating on the computer unless the NASCAR® 2003 CD-ROM is in the computer's disk drive. In other words, if a software pirate makes a digital copy of NASCAR® 2003 and provides it to some other user, Securom prevents the recipient from running the software unless the new user's

computer has a NASCAR® 2003 CD-ROM in its disk drive.

12. One of the most important parts of the NASCAR® 2003 software is the executable file NR2003.exe, which controls the loading of NASCAR® 2003 into memory when NASCAR® 2003 starts up.

13. Upon information and belief, Robinson or third parties located iRacing's proprietary physics formula data through either reverse engineering NR2003.exe and/or using tools that examine the computer's memory as NR2003.exe is running.

14. Upon information and belief, Robinson used this information obtained by reverse engineering to modify the NR2003.exe to change parameters within the NASCAR® 2003 physics model to simulate racing series other than NASCAR®.

15. Specifically, Robinson created two software applications also known as "executables": (1) the "OW-Racing 2005 Mod" under the file name "owr2k5-v1.0.0.1.zip" that simulates the Indy Racing League; and (2) the "Sprint Car Mod" that simulates the Sprint Car Series (together, the "Open Wheel Mods").

16. When installing the OW-Racing 2005 Mod, the program asks the end user to identify the NASCAR® 2003 personal computer directory location, then copies this directory and adds some modified software files, including an executable that defeats the Securom copy protection (the "NO-CD file"), and allows a derivative version of NASCAR® 2003 to operate without the NASCAR® 2003 CD-ROM being in the computer's CD-ROM drive.

17. The Sprint Car Mod follows the same procedures without including a NO-CD file, but Robinson has developed a separate NO-CD file under the file name "owsc\_nocd\_temp.zip" that users may download to circumvent the Securom copy

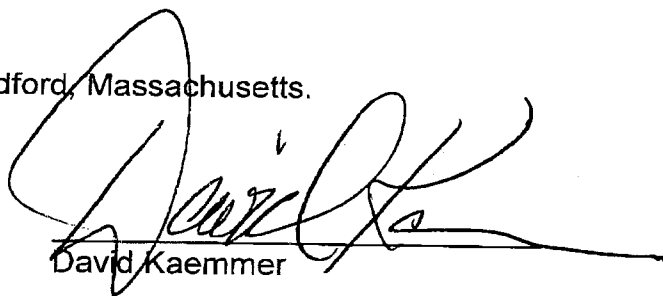
protection when running the Sprint Car Mod.

18. As of the date of the complaint's filing, Robinson was publishing the OW-Racing 2005 Mod and the NO-CD file on [www.ow-racing.com](http://www.ow-racing.com), [www.torn8oalley.com](http://www.torn8oalley.com), and/or [www.first-racing-sucks.com](http://www.first-racing-sucks.com).

19. Upon information and belief, Robinson is no longer personally publishing the Sprint Car Mod.

SWORN TO UNDER THE PAINS AND PENALTIES OF PERJURY UNDER THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS AND THE UNITED STATES OF AMERICA.

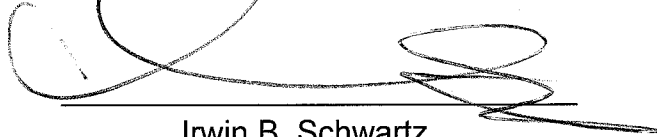
Executed on August 8, 2005 at Bedford, Massachusetts.



David Kaemmer

Certificate of Service

I, Irwin B. Schwartz, attorney for Plaintiff iRacing.com Motorsport Simulations, LLC, hereby certify that on this 8th day of August 2005, I filed the foregoing document with the Clerk of the Court using the CM/ECF system, and served the same by Federal Express and e-mail to Mr. Tim Robinson, 2104 Poppy Lane, Richardson, Texas 75081-4709 at [swdiecast@ow-racing.com](mailto:swdiecast@ow-racing.com)

A handwritten signature in black ink, appearing to be 'Irwin B. Schwartz', written over a horizontal line.

Irwin B. Schwartz

**WHOIS Search Results for: OW-RACING.COM**

The data contained in Go Daddy Software, Inc.'s WHOIS database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of Go Daddy Software, Inc. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, Go Daddy Software, Inc. is not the registrant of domain names listed in this database.

**Registrant:**

Tim Robinson  
2104 Poppy Ln  
Richardson, Texas 75081  
United States

Registered through: GoDaddy.com (<http://www.godaddy.com>)

Domain Name: OW-RACING.COM

Created on: 13-Jul-04

Expires on: 13-Jul-06

Last Updated on: 01-Jun-05

**Administrative Contact:**

Robinson, Tim [n3mcx@swbell.net](mailto:n3mcx@swbell.net)  
2104 Poppy Ln  
Richardson, Texas 75081  
United States  
9728891334

**Technical Contact:**

Robinson, Tim n3mcx@swbell.net  
2104 Poppy Ln  
Richardson, Texas 75081  
United States  
9728891334

Domain servers in listed order:  
NS1.VIRTBIZ.COM  
NS2.VIRTBIZ.COM

Registry Status: REGISTRAR-LOCK

## WHOIS Search Results for: TORN8OALLEY.COM

The data contained in Go Daddy Software, Inc.'s WHOIS database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of Go Daddy Software, Inc. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, Go Daddy Software, Inc. is not the registrant of domain names listed in this database.

### Registrant:

Tim Robinson  
2104 Poppy Ln  
Richardson, Texas 75081  
United States

Registered through: GoDaddy.com (<http://www.godaddy.com>)

Domain Name: TORN8OALLEY.COM

Created on: 03-Jan-01

Expires on: 03-Jan-07

Last Updated on: 22-Apr-05

### Administrative Contact:

Kesterson, David [kess@thekestersons.com](mailto:kess@thekestersons.com)  
100 Lakeview Circle  
Cumming, Georgia 30040  
United States

4049362340 Fax -- 1231231234

Technical Contact:



Kesterson, David kartatak@home.com  
1016 FOX RIVER LN  
FORT WORTH, Texas 76120-3412  
United States  
8174468176 Fax -- 1231231234

Domain servers in listed order:  
NS1.VIRTBIZ.COM  
NS2.VIRTBIZ.COM

Registry Status: REGISTRAR-LOCK